

**EXHIBITS REFERENCED IN  
DECLARATION OF HARVEY J. WEINTRAUB**



7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

August 29, 1994

Blue Cross & Blue Shield of Mass.  
HMO Blue  
492 Old Connecticut Path  
Framingham, MA 01701

ATTN: Barbara Chelte  
Pharmacy Contract Manager

Per your request, Warrick Pharmaceuticals offers the following product(s)/price(s) effective September 1, 1994 through December 31, 1994 to:

Blue Cross & Blue Shield of Mass.  
HMO Blue  
492 Old Connecticut Path  
Framingham, MA 01701  
(hereafter "customer")

under the terms and conditions herein and in the attachments listed below as such may be changed from time to time on thirty (30) days notice:

RETURNED GOODS POLICY	#21
PRIME VENDOR PROGRAM	#25
CONFIDENTIALITY	#35
AUDIT	#36
FORCE MAJEURE	#37

PRODUCTS

ALBUTEROL SULFATE SOLUTION 20ml	59930-1515-4	\$ 6.95
ALBUTEROL SULFATE SOLUTION 25X3ML	59930-1500-8	11.50
ALBUTEROL SULFATE SYRUP	59930-1500-5	7.95

Payment terms are: 2% 30 days from date of invoice: net 45 days from date of invoice. Min. order \$500.00, Federal Employer #22-3220986.

If this offer is acceptable, please indicate your approval by signing below and returning both originals to this office. Upon receipt a signed copy will be returned for your records. THIS OFFER WILL REMAIN IN EFFECT FOR SIXTY (60) DAYS FROM THIS DATE. WRITTEN ACCEPTANCE MUST BE RECEIVED BY WARRICK BEFORE EXPIRATION OF THE OFFER. This Agreement may be terminated by either party hereto at any time, and without cause upon not less than thirty (30) days prior written notice thereof to the other party.

SP 0004511  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY

Defendants' Exhibit

2904

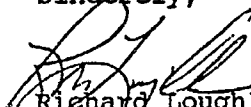
01-12257 - PBS

August 29, 1994

Acceptance of Warrick products constitutes an affirmative representation by you that they are solely for your "own use" as defined in the Portland Retailers case (425 U.S. 1(1976)).

Thank you for your continued interest in our product line.

Sincerely,

  
Richard Loughlin  
Vice President

Warrick Pharmaceuticals

BY: 

Title: Vice President

Date: 9-6-94

Telephone #: (908) 629-3158

FAX # (908) 629-3164

Blue Cross & Blue Shield of  
Mass.

BY: 

Title: DIRECTOR OF PLANS

Date: 8-30-94

Telephone #: 508 935 2332

Prime Vendor: JAMES BRUDNICK

city: MALDEN, MA 02148

AND  
JAMES W. DALY

PEABODY, MA 01961-60

warrlb/warlbv

SP 0004512  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY

Effective 7/8/95

**Warrick  
Pharmaceuticals**

7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

June 6, 1995

HMO Blue  
Framingham Corporate Center  
492 Old Connecticut Path  
Framingham, MA 01701ATTN: Gary Kerr  
Director of PharmacyContract #0950045  
Customer #C000927

At the request of Vic Zambrotta, Managed Care Area Manager, Warrick Pharmaceuticals is pleased to offer the following voluntary price reductions effective 30 days after execution of this agreement through ~~December 31, 1995~~ MARCH 31, 1996 *CK*

ALBUTEROL SOLUTION 25 X 3ML  
ALBUTEROL SYRUP 2MG/5ML59930-1500-8  
59930-1510-5\$9.00  
\$5.00

All other terms and conditions of the above referenced contract shall remain as previously stated.

If this offer is acceptable, please indicate your approval by signing below and returning both originals to this office. Upon receipt an executed copy will be returned for your records. THIS OFFER WILL REMAIN IN EFFECT FOR SIXTY (60) DAYS FROM THIS DATE. WRITTEN ACCEPTANCE MUST BE RECEIVED BY WARRICK BEFORE EXPIRATION OF THE OFFER. This Agreement may be terminated by either party hereto at any time, at will, and without cause upon not less than thirty (30) days prior written notice thereof to the other party.

Thank you for your continued interest in our product line.

Sincerely,

*Richard Loughlin*

*RL* Richard Loughlin  
Vice President

Warrick Pharmaceuticals

BY: *[Signature]*Title: *Vice President*Date: *6/16/95*

Telephone #: (908) 629-3158

FAX #: (908) 629-3164

HMO Blue

By: *[Signature]*Title: *Director of Pharmacy, HMO*Date: *6/8/95*Telephone #: *413-598-7200*Prime Vendor: *Brudnick*City: *Malden, Mass.*

SP 0004508  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY

Defendants' Exhibit

2905

01-12257 - PBS



BLUE CROSS BLUE SHIELD OF MASSACHUSETTS  
492 OLD CONNECTICUT PATH, FRAMINGHAM, MASSACHUSETTS 01701-4583, TEL (508) 935-2900

SEP 1<sup>ST</sup> 1994

August 30, 1994

Mr. Richard Loughlin  
Vice President  
Warrick Pharmaceuticals  
7500 North Natchez Avenue  
Niles, IL 60714-3804

Dear Mr. Loughlin:

Thank you for your price quotation for Albuterol Sulfate Solution and Syrup. I hereby accept your proposal effective September 1, 1994 through December 31, 1994.

Terms are:

1. Price: See attached
2. Payment: 2% 30 days DOI, Net 45 days DOI
3. Delivery: F.O.B. destination
4. Depot: Through Brudnick and Daly
5. Market Adjustment: HMO Blue reserves the right to re-open the bid process if the current holder is unable to adjust pricing to meet general market price reductions.
6. Minimum Order: \$500.00

HMO Blue is a not-for-profit Health Maintenance Organization which currently operates ten facilities with in-house pharmacies. I am including their names and addresses for delivery and billing purposes, since each facility will be ordering from this contract independently (see attached).

SP 0004510  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY



0950045

7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

February 8, 1995

**RECEIVED**

HMO Blue  
 Framingham Corporate Center  
 492 Old Connecticut Path  
 Framingham, MA 01701

FEB 13 1995

**BIDS AND CONTRACTS**

ATTN: Gary Kerr  
 Director of Pharmacy

Per the request of Vic Zambrotta, Managed Care Area Manager, Warrick Pharmaceuticals offers the following product(s)/price(s) effective thirty (30) days after execution through December 31, 1995 to:

HMO Blue  
 Framingham Corporate Center  
 492 Old Connecticut Path  
 Framingham, MA 01701  
 (hereafter "customer")

under the terms and conditions herein and in the attachments listed below as such may be changed from time to time on thirty (30) days notice:

RETURNED GOODS POLICY #21  
 PRIME VENDOR PROGRAM #25  
 CONFIDENTIALITY #35  
 AUDIT #36  
 FORCE MAJEURE #37

**PRODUCTS**

ALBUTEROL SULFATE SOLUTION 20ml	59930-1515-4	\$ 6.95
ALBUTEROL SULFATE SOLUTION 25X3ML	59930-1500-8	11.50
ALBUTEROL SULFATE SYRUP	59930-1510-5	7.95
CLOTRIMAZOLE CRM, 15GM	59930-1570-1	4.75
CLOTRIMAZOLE CRM, 30GM	59930-1570-2	8.50
CLOTRIMAZOLE CRM, 45GM	59930-1570-3	10.30

Payment terms are: 2% 30 days from date of invoice: net 45 days from date of invoice. Min. order \$500.00, Federal Employer #22-3220986.

If this offer is acceptable, please indicate your approval by signing below and returning both originals to this office. Upon receipt a signed copy will be returned for your records. **THIS OFFER WILL REMAIN IN EFFECT FOR SIXTY (60) DAYS FROM THIS DATE. WRITTEN ACCEPTANCE MUST BE RECEIVED BY WARRICK BEFORE EXPIRATION OF THE OFFER.** This Agreement may be terminated by either party hereto at any time, and without cause upon not less than thirty (30) days prior written notice thereof to the other party.

Defendants' Exhibit

**2906**

01-12257 - PBS

SP 0004494  
**CONFIDENTIAL**  
 ATTORNEYS' EYES ONLY

February 8, 1995

Acceptance of Warrick products constitutes an affirmative representation by you that they are solely for your "own use" as defined in the Kaiser vs. DeModena, 743 F.2d 1388.

Thank you for your continued interest in our product line.

Sincerely,

*Lina Colantoni*

per Richard Loughlin  
Vice President

Warrick Pharmaceuticals

By: *[Signature]*

Title: Vice President

Date: 2/21/95

Telephone #: (908) 629-3158

FAX # (908) 629-3164

HMO Blue

By: *[Signature]*

Title: Director of Pharmacy

Date: 2/9/95

Telephone #: 413-598-7200

Prime Vendor: Brudnick

City: Malden, MASS.

warrlb/warlbv

SP 0004495  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY

## **Warrick Pharmaceuticals**

7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

### ATTACHMENT #21

#### **RETURN GOODS POLICY**

All wholesaler returns must have the prior approval from Customer Services and be forwarded *prepaid* to 1011 Morris Avenue, Union, New Jersey 07083.

All retail account returns for credit over \$1,500 must have the prior approval of an authorized representative and be forwarded prepaid to 1011 Morris Avenue, Union, New Jersey 07083. Returns under \$1,500 can be approved by calling Customer Service, 1-800-547-3869. All returns to receive credit must be accompanied with a completed Return Goods Authorization form which will be supplied by Warrick. Warrick reserves the right to return any product that is received without a Return Goods Authorization form completed.

- a. Credit will be allowed on unopened and undamaged packages at current net prices as of date of return (except merchandise sold on a special promotion offer, in which case the invoice price will apply) as follows:
  - 1) Prescription product returns made within 3 months after a price increase will be credited at the price prior to the price increase.
  - 2) Dated products-full credit up to one year after expiration. No credit for products returned older than one year past expiration.
  - 3) Retail accounts can make returns directly to Warrick. The name and address of the Wholesaler that the return is to be credited through must be indicated on the Return Goods Authorization form. All conditions stated above apply to retail accounts.
  - 4) Warrick reserves the right to return or destroy products which are not returned in compliance with this policy without giving credit.
- b. The above adjustments will appear on Warrick's credit memoranda as follows:
  - 1) Items given full credit will show as individual line extensions.
  - 2) Items currently in the for which only partial credit has been allowed will be shown as *separate* line extensions.
  - 3) Discontinued items receiving partial credit will be included under "Miscellaneous Product."
- c. Manufacturers are expressly forbidden (under the Federal Food, Drug, and Cosmetic Act) from returning expired dated items to customers. Such items returned to Warrick will be destroyed. Warrick also reserves the right to destroy without credit, packages that are unfit or unsafe for sale or do not comply with applicable law.

SP 0004498  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY



- d. Consideration will be given to adjustments for losses suffered in a natural disaster (flood, hurricane, tornado, etc.) not covered by insurance. Your Warrick Representative will be glad to assist you in such emergencies.
- e. Our Representatives are not permitted to modify any of the above policies.

This returned goods policy does not apply to goods returned by persons other than the original retailer, wholesaler or hospital purchaser of the goods, or to goods which have been repacked or are in other than original Warrick containers.

ATTACHMENT #25

**Warrick**  
**Pharmaceuticals**

7500 North Natchez Avenue, Niles, Illinois 60648 • Telephone 1 800 547-3869 • Fax (908) 629-3164

PRIME VENDOR PROGRAM

Warrick Pharmaceuticals agrees to make bid prices available through designated wholesaler(s). In designating a wholesaler as prime vendor, the customer agrees to honor the terms and conditions herein. These are as follows.

- Warrick requires written notification from the account naming the wholesaler(s) designated as prime vendor(s).
- A listing of participating hospitals including complete address and DEA number must be provided.
- No institution can be added to a group purchase contract without Warrick's approval. Warrick reserves the right to reject or accept new group members and remove current members at Warrick's sole discretion. Thirty days after notification of approval by Warrick, new members are eligible for chargeback purchases.
- Any wholesaler "Service Fee" is determined between the participating Wholesaler and the Customer and/or Buying Group. Any Wholesaler's Service Fee is in addition to the contract prices of Warrick Corporation. Warrick Pharmaceuticals will not participate in the negotiations of any such Service Fee between the wholesaler and the customer. Any charges for shipping cost will be the responsibility of the Wholesaler and the Customer.
- Return of bid price merchandise from the institution must be made directly by the institution to Schering. Credit will be issued through the wholesaler via a credit memorandum. Wholesaler shall notify Warrick immediately of any bid price merchandise that is returned to the wholesaler, for whatever reason, by an institution. Wholesalers shall not distribute or sell bid price merchandise returned by an institution without Warrick's written consent.
- Account understands and agrees that any product purchased, either direct from Warrick or through a prime vendor, at contract bid prices shall be for the Institution's "own use" as defined by the United States Supreme Court in Portland Retail Druggists' Association, Inc. v Abbott Laboratories et al (425 U.S. 1 (1976)).

Notification of designated wholesaler(s) should be mailed to:

Warrick Pharmaceutical  
Attn: Cassandra Bragg, C/B Dept.  
P.O. Box 3193  
Union, NJ 07083-1993

Phone: 908-820-4806 Fax: 908-820-4848

WAR-25

SP 0004498  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY



7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

ATTACHMENT #35

**CONFIDENTIALITY**

Customer shall maintain the confidentiality of all pricing, marketing or other Warrick product information, including this agreement it's terms and conditions throughout the duration hereof and for a period of three (3) years following the effective date of expiration or termination.

WAR-35

SP 0004499  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY



7500 North Natchez Avenue, Niles, Illinois 60714-3804 • Telephone 1 800 547-3869

ATTACHMENT #36

**AUDIT**

Customer shall, at all times, keep and maintain accurate books, records and files with respect to any information relative to the dispensing, administration or sale of Warrick's products. Upon customer's receipt of written request from Warrick customer shall make such information available, through pharmacies or otherwise, in a manner mutually satisfactory to Warrick and customer, for inspection by Warrick's representatives or its designated auditors during regular business hours.

SP 0004500  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY

WAR-36



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7500 North Natchez Avenue, Niles, Illinois 60714 • Telephone 1 800 347-3869 • Fax (908) 629-3164

ATTACHMENT #37

FORCE MAJEURE

Noncompliance with the obligations of this Agreement due to force majeure, laws or regulations of any government, war, civil commotion, destruction of production facilities and materials, fire, earthquake or storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.

WAR-37

SP 0004501  
CONFIDENTIAL  
ATTORNEYS' EYES ONLY